

HUMAN SERVICES DEPARTMENT [441]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Services” Iowa Administrative Code.

The proposed amendments affect the provider standards for home- and community-based habilitation services and for the seven home- and community-based services (HCBS) waivers (ill and handicapped, elderly, AIDS/HIV, mental retardation, brain injury, physical disability, and children’s mental health). The Centers for Medicare and Medicaid Services (CMS) has approved amendments to Iowa’s waivers that require a process for incident reporting. The changes are required by CMS and must be implemented for Iowa to continue to receive federal financial participation for home- and community-based services.

The amendments:

- Amend the incident reporting standards for habilitation providers and service providers under the mental retardation, brain injury, and children’s mental health waivers.
- Add identical incident reporting standards for providers of services under the ill and handicapped, elderly, AIDS/HIV, and physical disability waivers.

The proposed incident reporting standards apply only to providers who have personal contact with members. The standards define “major” and “minor” incidents, prescribe the content of the incident report form, and set procedures for reporting of major and minor incidents. The standards require incident reports to be filed within 24 hours. Minor incidents

would be reported only internally to the provider supervisor and the member's file. Major incidents would also be reported to the member or the member's guardian, the member's case manager, and the Department's Bureau of Long-Term Care. Providers will be required to track and analyze incidents to determine if further training or changes in service procedures are needed.

These amendments exempt providers without direct member contact from the new incident reporting requirements. Otherwise, they do not provide for waivers in specified situations because all providers that have direct contact with members should be held to the same standards of protection. Providers or members may request a waiver of any rule under the Department's general rule on exceptions at rule 441--1.8(17A,217)

Any interested person may make written comments on the proposed amendments on or before April 15, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **77.25(1)** by rescinding the definition of "incident."

ITEM 2. Amend subrule **77.25(1)** by adopting the following **new** definitions in alphabetical order:

"Major incident" means an occurrence involving a member during service provision that:

1. Results in a physical injury to or by the member that requires a physician's treatment or admission to a hospital;

2. Results in the death of any person;
3. Requires emergency mental health treatment for the member;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a member’s location being unknown by provider staff who are assigned responsibility for oversight

“Member” means a person who has been determined to be eligible for Medicaid under 441—Chapter 75.

“Minor incident” means an occurrence involving a member during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

ITEM 3. Rescind subrule 77.25(3) and adopt the following **new** subrule in lieu thereof:

77.25(3) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS habilitation service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this

subrule.

a. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the member involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other members or non-members who were present must be maintained by the use of initials or other means.
- (5) The action that the provider staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

b. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the member or the member's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the member's case manager and the department's bureau of long-term care within 24 hours of the incident.
- (3) To the member or the member's guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the member's file.

c. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the member's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of members served and determine if Changes need to be made for service implementation, or staff training is needed to reduce the number or severity of incidents.

ITEM 4. Amend rule 441—77.30(249A), introductory paragraph, as follows:

441—77.30(249A) HCBS ill and handicapped waiver service providers. HCBS ill and handicapped waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A provider hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS ill and handicapped waiver program if they meet the standards in subrule 77.30(18) and also meet the standards set forth below for the service to be provided:

ITEM 5. Adopt **new** subrule 77.30(18) as follows:

77.30(18) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS ill and handicapped waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, home-delivered meals, or personal emergency response.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbers “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision

that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
- (5) The action that the provider staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 24 hours of the incident and shall distribute the completed

incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

(3) To the consumer or the consumer's legal guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 6. Amend rule 441—77.33(249A), introductory paragraph, as follows:

441—77.33(249A) HCBS elderly waiver service providers. HCBS elderly waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option

for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS elderly waiver program if they meet the standards in subrule 77.33(22) and also meet the standards set forth below for the service to be provided:

ITEM 7. Adopt **new** subrule 77.33(22) as follows:

77.33(22) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS elderly waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of assistive devices, chore service, goods and services purchased under the consumer choices option, home and vehicle modification, home-delivered meals, personal emergency response, or transportation.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;

6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or

7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

(5) The action that the provider staff took to manage the incident.

(6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

(3) To the consumer or the consumer's legal guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 8. Amend rule 441—77.34(249A), introductory paragraph, as follows:

441—77.34(249A) HCBS AIDS/HIV waiver service providers. HCBS AIDS/HIV waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided

in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS AIDS/HIV waiver program if they meet the standards in subrule 77.34(14) and also meet the standards set forth below for the service to be provided:

ITEM 9. Adopt **new** subrule 77.34(14) as follows:

77.34(14) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS AIDS/HIV waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or to home-delivered meals.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;

2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or

minor incident.

(4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

(5) The action that the provider staff took to manage the incident.

(6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

(3) To the consumer or the consumer's legal guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for

service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 10. Amend rule ~~441--77.37(249A)~~, first unnumbered paragraph, as follows:

The standards in subrule 77.37(1) apply only to providers of supported employment, respite providers certified according to subparagraph 77.37(15)“a”(8), and providers of supported community living services that are not residential-based. The standards and certification processes in subrules 77.37(2) through 77.37(7) and 77.37(9) through 77.37(12) apply only to supported employment providers and non-residential-based supported community living providers.

ITEM 11. Rescind subrule 77.37(8) and adopt the following **new** subrule in lieu thereof:

77.37(8) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS mental retardation waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, personal emergency response, and transportation.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;

3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.

(4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

(5) The action that the provider staff took to manage the incident.

(6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

(3) To the consumer or the consumer's legal guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of

incidents.

ITEM 12. Rescind subrule 77.39(6) and adopt the following **new** subrule in lieu thereof:

77.39(6) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS brain injury waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, personal emergency response, and transportation.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
- (5) The action that the provider staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the

consumer's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

(3) To the consumer or the consumer's legal guardian within 24 hours of the incident.

(4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 13. Adopt **new** subrule 77.41(12) as follows:

77.41(12) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS physical disability waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle

modification, specialized medical equipment, personal emergency response, and transportation.

a. Definitions

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

- b. Report form. Each major or minor incident shall be recorded on Form 470-4698,

HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

- (1) The name of the consumer involved.
- (2) The date and time the incident occurred.
- (3) A description of the incident, including designation of the incident as a major or minor incident.
- (4) The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

- (5) The action that the provider staff took to manage the incident.
- (6) The resolution of or follow-up to the incident.

c. Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, provider staff shall notify the consumer or the consumer's legal guardian within 24 hours of the incident and shall distribute the completed incident report form as follows:

- (1) To the supervisor of the provider staff involved within 24 hours of the incident.
- (2) To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.
- (3) To the consumer or the consumer's legal guardian within 24 hours of the incident.
- (4) To a centralized file with a notation in the consumer's file.

d. Reporting procedure for minor incidents. When a minor incident occurs or when a

staff member becomes aware of a minor incident, provider staff shall distribute the completed incident report form as follows:

(1) To the supervisor of the provider staff involved within 24 hours of the incident.

(2) To a centralized file with a notation in the consumer's file.

e. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 14. Rescind paragraph **77.46(1)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Incident management and reporting. As a condition of participation in the medical assistance program, HCBS children's mental health waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and must comply with the following incident management and reporting requirements. EXCEPTION: The conditions in this paragraph do not apply to providers of environmental modifications and adaptive devices.

(1) Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;

4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in numbered paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned responsibility for oversight.

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

(2) Report form. Each major or minor incident shall be recorded on Form 470-4698, HCBS Incident and Death Report. The form shall be completed and signed by the provider staff who observed the incident or who first became aware of the incident. The report shall include the following information:

1. The name of the consumer involved.
2. The date and time the incident occurred.
3. A description of the incident, including designation of the incident as a major or minor incident.
4. The names of all provider staff and others who were present at the time of the incident

or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

5. The action that the provider staff took to manage the incident.

6. The resolution of or follow-up to the incident.

(3) Reporting procedure for major incidents. When a major incident occurs or when a staff member becomes aware of a major incident, the provider staff shall notify the supervisor immediately. The supervisor shall immediately notify the consumer's case manager and the consumer's parent or legal guardian, unless the parent or legal guardian is suspected as the perpetrator. If the parent or legal guardian is suspected as the perpetrator, the supervisor shall follow the procedures for reporting child abuse according to Iowa Code section 232.69. The provider staff shall distribute the completed incident report form as follows:

1. To the supervisor of the provider staff involved within 24 hours of the incident.

2. To the consumer's case manager and the department's bureau of long-term care within 24 hours of the incident.

3. To the consumer or the consumer's legal guardian within 24 hours of the incident unless the parent or legal guardian is suspected as the perpetrator.

4. To a centralized file with a notation in the consumer's file.

(4) Reporting procedure for minor incidents. When a minor incident occurs or when a staff member becomes aware of a minor incident, provider staff shall notify the consumer's parent or legal guardian immediately and distribute the completed incident report form as follows:

1. To the supervisor of the provider staff involved within 24 hours of the incident.

2. To a centralized file with a notation in the consumer's file.

(5) Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and to determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.